

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

NAJOSHUA BENJAMIN, #790026 §

v. § CIVIL ACTION NO. 2:10cv351

DIRECTOR, TDCJ-CID §

ORDER ADOPTING REPORT AND RECOMMENDATION

The above-entitled and numbered petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 was heretofore referred to United States Magistrate Charles Everingham IV. The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Petitioner has filed objections.

Having made a *de novo* review of the objections raised by Petitioner to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and Petitioner's objections are without merit. Specifically, Petitioner essentially repeats his claims and that he understands "ignorance is no excuse for the law," but presents no valid argument addressing the findings of the Magistrate Judge. He offers to take a polygraph test to prove his claims of intimidation and other alleged improper conduct, but that is not the issue. His petition is untimely and therefore time-barred. It is therefore

ORDERED that Petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is **DENIED** and the case is **DISMISSED** with prejudice. A certificate of appealability is **DENIED**. All motions by either party not previously ruled on are hereby **DENIED**.

SIGNED this 6th day of July, 2011.


DAVID FOLSOM
UNITED STATES DISTRICT JUDGE